

**Consideration of report from Department of Natural Resources regarding a citizen petition to amend the rule governing the issuance of nuisance wild animal control permits to reduce conflicts of interest; Administrative Cause No. 15-039D**

The Committee consisted of the DNR's Chief Legal Counsel, Joe Hoage, Mark Reiter, the Division of Fish and Wildlife (DFW) Director, and Linnea Petercheff, Operations Staff Specialist with the DFW.

The DNR does not perceive this issue as a conflict regarding the issuance of the permits, and that this is a local issue that should be addressed with the town council. The DNR believes that adding this requirement would be over-reaching on the state's part; this is simply a local issue. This petition assumes there are violations or problems with council members, but this has not been proven. Furthermore, changing the rule regarding this permit would affect all other permits issued for this purpose, and this has not been an issue with other permits. It could also severely limit the number of people that are able to take the deer for that community or landowner, and the deer are already causing damage to property. Please note that landowners that request permits are allowed to take deer under that permit, in addition to the assistants (shooters).

Additionally, the DNR may propose rules that are based only on the welfare of the wild animal, the relationship of the wild animal to other animals, and the welfare of the people pursuant to IC 14-22-2-6(b). This proposed language does not meet these criteria, since the number of deer, method of taking the deer, and disposal of the deer are specified on the permit to ensure the humane taking and disposition of the animals and safety of the public.

The DNR allows shooters to participate under a permit to take deer as long as they are requested by the landowner or tenant and are in compliance with the hunter education requirements in IC 14-22-11-5 (those born before December 31, 1986 are exempt from passing a hunter education course).

In conclusion, the DNR does not believe that a change is needed to prohibit employees, elected or appointed officers from participating in the taking of deer under a special control permit.

Attached is a copy of Charles and Mary Chuman's citizen petition submitted by David G. Clark, Attorney, Canalia & Clark.

STATE OF INDIANA )  
DEPARTMENT OF NATURAL RESOURCES )  
NATURAL RESOURCES COMMISSION )

Administrative Cause  
Number: 15-0397

To: Division of Hearings  
Natural Resources Commission  
Indiana Government Center North  
100 North Senate Avenue, Room N501  
Indianapolis, IN 46204-2200

**FILED**

MAR 09 2015

NATURAL RESOURCES COMMISSION  
DIVISION OF HEARINGS

**PETITION FOR RULE CHANGE**

Subject: Special Purpose Deer Control Permit - Conflicts of Interest  
Authority: IC 14-22-28 - Permit to Take, Kill, or Capture Wild Animal Damaging Property  
Rule: 312 IAC 9-10-11 - Nuisance wild animal control permit

**Summary:**

This petition seeks a rule change enhancing local government accountability and the safety of the public by prohibiting elected or appointed municipal officials charged with the oversight and enforcement of the conditions of the permit from personal participation in the permitted activity.

**Factual Background:**

The municipality of the Town of Dune Acres is heavily wooded and surrounded by the Indiana Dunes National Lakeshore except for 1/8<sup>th</sup> of a mile where it abuts the adjacent municipality. The area is over-populated by white tail deer to the extent of creating a nuisance. The deer population is exacerbated due to the large combined area of the adjacent municipality and national park being off limits to hunting. The municipality of the Town of Dune Acres has for many years sought and been granted a Special Purpose Deer Control Permit.

Recently, residents of this municipality have voiced complaints concerning the "designated shooters" named in the permit allegedly violating the written "Conditions and Authorizations" set forth in the permit. The complaining residents contacted their local DNR Conservation Officer ("CO") and the operations staff specialist for the Division of Fish and Wildlife who issued the permit seeking to lodge a complaint. The CO and staff specialist advised them that concerns and complaints should be directed to the municipal town council, which is charged with compliance and oversight of the terms of the permit. **However, two of the three person town council are themselves "designated shooters" whose alleged actions are being complained of; a clear conflict of interest.**

The complaining residents are understandably concerned with the resultant lack of oversight and enforcement of an activity involving firearms that carries inherent risks.

**Proposed Rule Change:**

Petitioner requests that new subsections to 312 IAC 9-10-11 be added that substantially set forth the following:

(o) No permit shall be issued under this section:

....

(4) that would authorize any elected or appointed officer or employee of a municipality to personally participate in the permitted activity when that same officer or employee is responsible for oversight or enforcement of the terms of a permit issued to the municipality;

**Conclusion:**

Public safety and trust are important when a permit is granted to control white tail deer in residential areas. Safety and trust are enhanced when the conditions set out in the permit are observed and effectively enforced. Safety and trust cannot be enhanced when the public has no effective avenue for complaints and enforcement due to obvious conflicts of interest. The proposed rule change would enhance public safety and trust by prohibiting such conflicts of interest.

Respectfully Submitted,

Charles and Mary Chuman  
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Petitioners  
Original proposers of town deer cull

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